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1 A bill to be entitled

2 An act relating to vessels; amending s. 206.606, F.S.;
3 authorizing the use of certain funds for local boating
4 related projects and activities; amending s. 327.59, F.S.;
5 authorizing marina owners, operators, employees, and
6 agents to take actions to secure vessels during severe
7 weather and to charge fees and be held harmless for such
8 service; holding marina operators, employees, and agents
9 liable for damage caused by intentional acts or negligence
10 while removing or securing vessels; authorizing contract
11 provisions and notice relating to removing or securing
12 vessels; amending s. 327.60, F.S.; providing for local
13 regulation of anchoring within mooring fields; amending s.
14 328.64, F.S.; requiring the Department of Highway Safety
15 and Motor Vehicles to provide forms for certain
16 notification related to vessels; requiring the department
17 to provide by rule for the surrender and replacement of
18 certificates of registration to reflect change of address;
19 amending s. 328.72, F.S.; requiring counties to use funds
20 for specific boating related purposes; requiring counties
21 to provide reports demonstrating specified expenditure of
22 such funds; providing penalties for failure to comply;
23 amending s. 376.11, F.S.; authorizing the distribution of
24 revenues from the Florida Coastal Protection Trust Fund to
25 all local governments for the removal of certain vessels;
26 amending s. 376.15, F.S.; revising provisions relating to
27 the removal of abandoned and derelict vessels; specifying
28 officers authorized to remove such vessels; providing that
29 certain costs are recoverable; requiring the Department of

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Legal Affairs to represent the Fish and Wildlife Conservation Commission in certain actions; expanding eligibility for disbursement of grant funds for the removal of certain vessels; amending s. 403.813, F.S.; providing exemptions from permitting, registration, and regulation of floating vessel platforms or floating boat lifts by a local government; amending s. 705.101, F.S.; revising the definition of "abandoned property" to include certain vessels; amending s. 705.103, F.S.; revising the terminology relating to abandoned or lost property to conform; amending s. 823.11, F.S.; revising provisions relating to abandoned and derelict vessels and the removal of such vessels; providing a definition of "derelict vessel"; specifying which officers may remove such vessels; providing that vessel removal may be funded by certain grants; requiring the Department of Legal Affairs to represent the Fish and Wildlife Conservation Commission in certain actions; deleting a provision authorizing the commission to delegate certain authority to local governments under certain circumstances; authorizing private property owners to remove certain vessels with required notice; providing that cost of such removal is recoverable; prohibiting private property owners from hindering the removal of certain vessels by vessel owners or agents; providing for jurisdictional imposition of civil penalties for violations relating to certain vessels; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (b) of subsection (1) of section 206.606, Florida Statutes, is amended to read:

206.606 Distribution of certain proceeds.--

(1) Moneys collected pursuant to ss. 206.41(1)(g) and 206.87(1)(e) shall be deposited in the Fuel Tax Collection Trust Fund. Such moneys, after deducting the service charges imposed by s. 215.20, the refunds granted pursuant to s. 206.41, and the administrative costs incurred by the department in collecting, administering, enforcing, and distributing the tax, which administrative costs may not exceed 2 percent of collections, shall be distributed monthly to the State Transportation Trust Fund, except that:

(b) \$2.5 million shall be transferred to the State Game Trust Fund in the Fish and Wildlife Conservation Commission in each fiscal year and used for recreational boating activities, and freshwater fisheries management and research. The transfers must be made in equal monthly amounts beginning on July 1 of each fiscal year. The commission shall annually determine where unmet needs exist for boating-related activities, and may fund such activities in counties where, due to the number of vessel registrations, sufficient financial resources are unavailable.

1. A minimum of \$1.25 million shall be used to fund local projects to provide recreational channel marking and other uniform waterway markers, public boat ramps, lifts, and hoists, marine railways, and other, public launching facilities, derelict vessel removal ~~aquatic plant control~~, and other local boating related activities. In funding the projects, the commission shall give priority consideration as follows:

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88 a. Unmet needs in counties with populations of 100,000 or
89 less.

90 b. Unmet needs in coastal counties with a high level of
91 boating related activities from individuals residing in other
92 counties.

93 2. The remaining \$1.25 million may be used for recreational
94 boating activities and freshwater fisheries management and
95 research.

96 3. The commission is authorized to adopt rules pursuant to
97 ss. 120.536(1) and 120.54 to implement a Florida Boating
98 Improvement Program ~~similar to the program administered by the~~
99 ~~Department of Environmental Protection and established in rules~~
100 ~~62D-5.031 — 62D-5.036, Florida Administrative Code, to determine~~
101 ~~projects eligible for funding under this subsection.~~

102
103 On February 1 of each year, the commission shall file an annual
104 report with the President of the Senate and the Speaker of the
105 House of Representatives outlining the status of its Florida
106 Boating Improvement Program, including the projects funded, and a
107 list of counties whose needs are unmet due to insufficient
108 financial resources from vessel registration fees.

109 Section 2. Section 327.59, Florida Statutes, is amended to
110 read:

111 327.59 Marina evacuations.--

112 (1) After June 1, 1994, marinas may not adopt, maintain, or
113 enforce policies pertaining to evacuation of vessels which
114 require vessels to be removed from marinas following the issuance
115 of a hurricane watch or warning, in order to ensure that
116 protecting the lives and safety of vessel owners is placed before

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interests of protecting property.

(2) Nothing in this section may be construed to restrict the ability of an owner of a vessel or the owner's authorized representative to remove a vessel voluntarily from a marina at any time or to restrict a marina owner from dictating the kind of cleats, ropes, fenders, and other measures that must be used on vessels as a condition of use of a marina. After a tropical storm or hurricane watch has been issued, a marina owner or operator, or an employee or agent of such owner or operator, may take reasonable actions to further secure any vessel within the marina to minimize damage to a vessel and to protect marina property, private property, and the environment and may charge a reasonable fee for such services.

(3) Notwithstanding any other provisions of this section, in order to minimize damage to a vessel and to protect marina property, private property, and the environment, a marina owner may provide by contract that in the event a vessel owner fails to promptly remove a vessel from a marina after a tropical storm or hurricane watch has been issued, the marina owner, operator, employee, or agent may remove the vessel, if feasible, from its slip or take whatever reasonable actions are deemed necessary to properly secure a vessel to minimize damage to a vessel and to protect marina property, private property, and the environment and may charge the vessel owner a reasonable fee for any such services rendered. In order to add such a provision to a contract, the marina owner must provide notice to the vessel owner in any such contract in a font size of at least 10 points and in substantially the following form:

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NOTICE TO VESSEL OWNER

The undersigned hereby informs you that in the event you fail to remove your vessel from the marina promptly (timeframe to be determined between the marina owner or operator and the vessel owner) after the issuance of a tropical storm or hurricane watch for (insert geographic area), Florida, under Florida law, the undersigned or his or her employees or agents are authorized to remove your vessel, if feasible, from its slip or take any and all other reasonable actions deemed appropriate by the undersigned or his or her employees or agents in order to better secure your vessel and to protect marina property, private property, and the environment. You are further notified that you may be charged a reasonable fee for any such action.

(4) A marina owner, operator, employee, or agent shall not be held liable for any damage incurred to a vessel from storms or hurricanes and is held harmless as a result of such actions. Nothing in this section may be construed to provide immunity to a marina operator, employee, or agent for any damage caused by intentional acts or negligence when removing or securing a vessel as permitted under this section.

Section 3. Subsection (2) of section 327.60, Florida Statutes, is amended to read:

327.60 Local regulations; limitations.--

(2) Nothing contained in the provisions of this section shall be construed to prohibit local governmental authorities from the enactment or enforcement of regulations which prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions or of any vessels

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175 within the marked boundaries of mooring fields permitted as
176 provided in s. 327.40. However, local governmental authorities
177 are prohibited from regulating the anchoring outside of such
178 mooring fields ~~anchorage~~ of non-live-aboard vessels ~~engaged in~~
179 ~~the exercise of rights of~~ navigation.

180 Section 4. Section 328.64, Florida Statutes, is amended to
181 read:

182 328.64 Change of interest and address.--

183 (1) The owner shall furnish the Department of Highway
184 Safety and Motor Vehicles notice of the transfer of all or any
185 part of his or her interest in a vessel registered or titled in
186 this state pursuant to this chapter or chapter 328 or of the
187 destruction or abandonment of such vessel, within 30 days
188 thereof, on a form prescribed by the department. Such transfer,
189 destruction, or abandonment shall terminate the certificate for
190 such vessel, except that in the case of a transfer of a part
191 interest which does not affect the owner's right to operate such
192 vessel, such transfer shall not terminate the certificate. The
193 department shall provide the form for such notice and shall
194 attach the form to every vessel title issued or reissued.

195 (2) Any holder of a certificate of registration shall
196 notify the Department of Highway Safety and Motor Vehicles or the
197 county tax collector within 30 days, if his or her address no
198 longer conforms to the address appearing on the certificate and
199 shall, as a part of such notification, furnish the department or
200 such county tax collector with the new address. The department
201 shall ~~may~~ provide in its rules and regulations for the surrender
202 of the certificate bearing the former address and its replacement
203 with a certificate bearing the new address or for the alteration

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204 of an outstanding certificate to show the new address of the
205 holder.

206 Section 5. Subsection (15) of section 328.72, Florida
207 Statutes, is amended to read:

208 328.72 Classification; registration; fees and charges;
209 surcharge; disposition of fees; fines; marine turtle stickers.--

210 (15) DISTRIBUTION OF FEES.--Except for the first \$2, \$1 of
211 which shall be remitted to the state for deposit into the Save
212 the Manatee Trust Fund created within the Fish and Wildlife
213 Conservation Commission and \$1 of which shall be remitted to the
214 state for deposit into the Marine Resources Conservation Trust
215 Fund to fund a grant program for public launching facilities,
216 pursuant to s. 327.47, giving priority consideration to counties
217 with more than 35,000 registered vessels, moneys designated for
218 the use of the counties, as specified in subsection (1), shall be
219 distributed by the tax collector to the board of county
220 commissioners for use only as provided in this section. Such
221 moneys to be returned to the counties are for the sole purposes
222 of providing recreational channel marking and other uniform
223 waterway markers, public boat ramps, lifts, and hoists, marine
224 railways, and other public launching facilities, derelict vessel
225 removal, and ~~other boating-related activities, for~~ removal of
226 vessels and floating structures deemed a hazard to public safety
227 and health for failure to comply with s. 327.53, ~~and for manatee~~
228 ~~and marine mammal protection and recovery~~. Counties shall that
229 demonstrate through an annual detailed accounting report of
230 vessel registration revenues that ~~at least \$1 of~~ the registration
231 fees were spent as provided in this subsection ~~on boating~~
232 ~~infrastructure shall only be required to transfer the first \$1 of~~

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233 ~~the fees to the Save the Manatee Trust Fund.~~ This report shall be
234 provided to the Fish and Wildlife Conservation Commission no
235 later than November 1 of each year. If, prior to January 1 of
236 each calendar year, the annual detailed accounting report meeting
237 the prescribed criteria has still not been provided to the
238 commission, the tax collector of that county shall not distribute
239 the moneys designated for the use of counties, as specified in
240 subsection (1), to the board of county commissioners but shall,
241 instead, for the next calendar year, remit such moneys to the
242 state for deposit into the Marine Resources Conservation Trust
243 Fund. The commission shall return those moneys to the county if
244 the county fully complies with this section within that calendar
245 year. If the county does not fully comply with this section
246 within that calendar year, the moneys shall remain within the
247 Marine Resources Trust Fund and may be appropriated for the
248 purposes specified in this subsection ~~The commission shall~~
249 ~~provide an exemption letter to the department by December 15 of~~
250 ~~each year for qualifying counties.~~

251 Section 6. Paragraph (g) of subsection (4) of section
252 376.11, Florida Statutes, is amended to read:

253 376.11 Florida Coastal Protection Trust Fund.--

254 (4) Moneys in the Florida Coastal Protection Trust Fund
255 shall be disbursed for the following purposes and no others:

256 (g) The funding of a grant program to ~~coastal~~ local
257 governments, pursuant to s. 376.15(2)(b) and (c), for the removal
258 of derelict vessels from the public waters of the state.

259 Section 7. Section 376.15, Florida Statutes, is amended to
260 read:

261 376.15 Derelict vessels; removal from public waters.--

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(1) It is unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel as defined in s. 823.11(1) in this state ~~or leave any vessel in a wrecked, junked, or substantially dismantled condition or abandoned upon any public waters or at any port in this state without the consent of the agency having jurisdiction thereof or docked at any private property without the consent of the owner of the private property.~~

(2)(a) The Fish and Wildlife Conservation Commission and its officers and all law enforcement officers as specified in s. 327.70 ~~are is hereby designated as the agency of the state~~ authorized and empowered to remove any derelict vessel as defined in s. 823.11(1) described in subsection (1) from public waters. All costs incurred by the commission or other law enforcement agency in the removal of any abandoned or derelict vessel shall be recoverable against the owner of the vessel. The Department of Legal Affairs shall represent the commission in such actions.

(b) The commission may establish a program to provide grants to ~~coastal~~ local governments for the removal of derelict vessels from the public waters of the state. The program shall be funded from the Florida Coastal Protection Trust Fund. Notwithstanding the provisions in s. 216.181(11), funds available for grants may only be authorized by appropriations acts of the Legislature.

(c) The commission shall adopt by rule procedures for submitting a grant application and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:

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290 1. The number of derelict vessels within the jurisdiction
291 of the applicant.

292 2. The threat posed by such vessels to public health or
293 safety, the environment, navigation, or the aesthetic condition
294 of the general vicinity.

295 3. The degree of commitment of the local government to
296 maintain waters free of abandoned and derelict vessels and to
297 seek legal action against those who abandon vessels in the waters
298 of the state.

299 (d) This section shall constitute the authority ~~of the~~
300 ~~commission~~ for such removal, but is not intended to be in
301 contravention of any applicable federal act.

302 ~~(e) The Department of Legal Affairs shall represent the~~
303 ~~Fish and Wildlife Conservation Commission in such actions.~~

304 Section 8. Paragraph (s) of subsection (2) of section
305 403.813, Florida Statutes, is amended to read:

306 403.813 Permits issued at district centers; exceptions.--

307 (2) A permit is not required under this chapter, chapter
308 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter
309 25270, 1949, Laws of Florida, for activities associated with the
310 following types of projects; however, except as otherwise
311 provided in this subsection, nothing in this subsection relieves
312 an applicant from any requirement to obtain permission to use or
313 occupy lands owned by the Board of Trustees of the Internal
314 Improvement Trust Fund or any water management district in its
315 governmental or proprietary capacity or from complying with
316 applicable local pollution control programs authorized under this
317 chapter or other requirements of county and municipal
318 governments:

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319 (s) The construction, installation, operation, or
320 maintenance of floating vessel platforms or floating boat lifts,
321 provided that such structures:

322 1. Float at all times in the water for the sole purpose of
323 supporting a vessel so that the vessel is out of the water when
324 not in use;

325 2. Are wholly contained within a boat slip previously
326 permitted under ss. 403.91-403.929, 1984 Supplement to the
327 Florida Statutes 1983, as amended, or part IV of chapter 373, or
328 do not exceed a combined total of 500 square feet, or 200 square
329 feet in an Outstanding Florida Water, when associated with a dock
330 that is exempt under this subsection or associated with a
331 permitted dock with no defined boat slip or attached to a
332 bulkhead on a parcel of land where there is no other docking
333 structure, do not exceed a combined total of 500 square feet, or
334 200 square feet in an Outstanding Florida Water;

335 3. Are not used for any commercial purpose or for mooring
336 vessels that remain in the water when not in use, and do not
337 substantially impede the flow of water, create a navigational
338 hazard, or unreasonably infringe upon the riparian rights of
339 adjacent property owners, as defined in s. 253.141;

340 4. Are constructed and used so as to minimize adverse
341 impacts to submerged lands, wetlands, shellfish areas, aquatic
342 plant and animal species, and other biological communities,
343 including locating such structures in areas where ~~no~~ seagrasses
344 are least dense ~~exist if such areas are present~~ adjacent to the
345 dock or bulkhead; and

346 5. Are not constructed in areas specifically prohibited for
347 boat mooring under conditions of a permit issued in accordance

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with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of chapter 373, or other form of authorization issued by a local government.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund and shall not be subject to any permitting requirements, registration requirements, or other more stringent regulation by any local government. The exemption provided in this paragraph shall be in addition to the exemption provided in paragraph (b). ~~By January 1, 2003,~~ The department shall adopt a general permit by rule for the construction, installation, operation, or maintenance of those floating vessel platforms or floating boat lifts that do not qualify for the exemption provided in this paragraph but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of such general permit shall also constitute permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund. ~~Upon the adoption of the rule creating such general permit,~~ No local government shall impose a more stringent regulation, permitting requirement, or registration requirement on floating vessel platforms or floating boat lifts covered by such general permit.

Section 9. Subsection (3) of section 705.101, Florida Statutes, is amended to read:

705.101 Definitions.--As used in this chapter:

(3) "Abandoned property" means all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or

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377 partially dismantled condition or has no apparent intrinsic value
378 to the rightful owner. The term includes derelict vessels as
379 defined in s. 823.11(1) ~~Vessels determined to be derelict by the~~
380 ~~Fish and Wildlife Conservation Commission or a county or~~
381 ~~municipality in accordance with the provisions of s. 823.11 are~~
382 ~~included within this definition.~~

383 Section 10. Subsection (4) of section 705.103, Florida
384 Statutes, is amended to read:

385 705.103 Procedure for abandoned or lost property.--

386 (4) The owner of any abandoned or lost property who, after
387 notice as provided in this section, does not remove such property
388 within the specified period shall be liable to the law
389 enforcement agency for all costs of removal, storage, and
390 destruction of such property, less any salvage value obtained by
391 disposal of the property. Upon final disposition of the property,
392 the law enforcement officer shall notify the owner, if known, of
393 the amount owed. In the case of an abandoned vessel ~~boat~~ or motor
394 vehicle, any person who neglects or refuses to pay such amount is
395 not entitled to be issued a certificate of registration for such
396 vessel ~~boat~~ or motor vehicle, or any other vessel ~~boat~~ or motor
397 vehicle, until such costs have been paid. The law enforcement
398 officer shall supply the Department of Highway Safety and Motor
399 Vehicles with a list of persons whose vessel ~~boat~~ registration
400 privileges or whose motor vehicle privileges have been revoked
401 under this subsection. Neither the department nor any other
402 person acting as agent thereof shall issue a certificate of
403 registration to a person whose vessel ~~boat~~ or motor vehicle
404 registration privileges have been revoked, as provided by this
405 subsection, until such costs have been paid.

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Section 11. Section 823.11, Florida Statutes, is amended to read:

823.11 Abandoned and derelict vessels; removal; penalty.--

(1) "Derelict vessel" means any vessel, as defined in s. 327.02, that is left stored or abandoned:

(a) In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.

(b) At any port in this state without the consent of the agency having jurisdiction thereof.

(c) Docked or grounded at or beached upon the property of another without the consent of the owner of the property.

(2) It is unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel as defined in this section in this state ~~or leave any vessel as defined by maritime law in a wrecked, junked, or substantially dismantled condition or abandoned upon or in any public water or at any port in this state without the consent of the agency having jurisdiction thereof, or docked at any private property without the consent of the owner of such property.~~

(3) (a)-(2) The Fish and Wildlife Conservation Commission and its officers and all law enforcement officers as specified in s. 327.70 are ~~is designated as the agency of the state~~ authorized and empowered to remove or cause to be removed any abandoned or derelict vessel from public waters in any instance when the same obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment. Removal of vessels pursuant to this section may be funded by grants provided in ss. 206.606 and 376.15. Derelict vessels may be removed from public waters or other public property as provided in s. 705.103. All

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costs incurred by the commission or other law enforcement agency in the removal of any abandoned or derelict vessel as set out above shall be recoverable against the owner thereof. The Department of Legal Affairs shall represent the commission in such actions. As provided in s. 705.103(4), any person who neglects or refuses to pay such amount is not entitled to be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until the costs have been paid.

(b) When a derelict vessel is docked or grounded at or beached upon private property without the consent of the owner of the property, the owner of the property may remove the vessel at the vessel owner's expense 60 days after compliance with the notice requirements specified in s. 328.17(5). The private property owner may not hinder reasonable efforts by the vessel owner or agent to remove the vessel. Any notice given pursuant to this paragraph shall be presumed delivered when it is deposited with the United States Postal Service, certified, and properly addressed with prepaid postage. Pursuant to an agreement with the governing body of a county or municipality, and upon a finding by the commission that the county or municipality is competent to undertake said responsibilities, the commission may delegate to the county or municipality its authority to remove or cause to be removed an abandoned or derelict vessel from public waters within the county or municipality.

(4)(3) Any person, firm, or corporation violating this act commits is guilty of a misdemeanor of the first degree and shall be punished as provided by law. Conviction under this section shall not bar the assessment and collection of the civil penalty provided in s. 376.16 for violation of s. 376.15. The court

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464 having jurisdiction over the criminal offense, notwithstanding
465 any jurisdictional limitations on the amount in controversy, may
466 order the imposition of such civil penalty in addition to any
467 sentence imposed for the first criminal offense.

468 Section 12. This act shall take effect July 1, 2006.